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10/774,895	02/09/2004	Scott D. Hardy	10762-006001	8757
26161	7590	09/28/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,895

Applicant(s)

HARDY, SCOTT D.

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action, or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 31 (second occurrence) has been renumbered as claim 32.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11, 12, 13, 14, 19 through 21, 22, 24, 25, 26 and 30 through 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No. 5,881,408).

Szego '506, as seen in Figures 1 and 2, shows a structure comprising:

with regard to claims 11 and 30,

a base platform (12) and plurality of inflatable side panels (11) defining an enclosure for the child;

with regard to claim 19,

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wherein the plurality of inflatable side panels is configured to be inflatable from a single valve (14; col. 1, lines 39 through 42);

with regard to claim 20,

wherein the base and side panels are integral;

with regard to claim 21,

wherein the base is inflatable;

with regard to claim 22,

wherein the base platform comprises a plurality of elongated ribs; and

with regard to claim 26,

wherein the panels are inflated with air (col. 1, line 67).

Szego '506 fails to teach:

a protective member sealing the inner, inflatable panels from the child;

the protective member being a woven mesh;

the mesh being bonded to the side panels;

the mesh being bonded by heat-sealing;

a pump; and

the lower end of the side panels having a width greater than the upper end.

Bashista et al. '408, as seen in Figures 1 through 5, disclose a mesh crib liner (30) formed of a woven material (col. 3, lines 33 through 36), wherein the woven mesh is bonded to the side panels (via elements 47), and wherein the protective member is also positioned at a corner region

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of the structure and capable of preventing a child from squirming or rolling in to the corner region.

With regard to claims 11, 12, 13 and 30 through 32, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device disclosed by Szego '506 such that it would further include the liner taught by Bashista et al. '408. The motivation would have been to provide the crib with means for preventing an infant or toddler from extending her limbs out through the apertures in the side panels.

With regard to claim 14, it would have been obvious to one having ordinary skill in the art at the time of invention to further modify the device disclosed by the combination of Szego '506 and Bashista et al. '408 such that the bonding means would comprise heat seals instead of hook and loop fasteners. The motivation would have been to secure the protective member to the side panels in a more secure manner.

With regard to claim 24, it would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to make the lower ends of each of the side panels of the device shown by the combination of Szego '506 and Bashista et al. '408 wider than their upper ends. The motivation would have been to stabilize the structure against over-tipping.

With regard to claim 25, the Examiner takes Official Notice of the use of pumps for filling inflatable devices with air.

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4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No. 5,881,408) as applied to claim 13 above, and further in view of Kohus et al. (U.S. Patent No. 4,739,527).

Szego '506 as modified by Bashista et al. '408 fails to teach:
the means for bonding comprising stitching.

Kohus et al. '527, as seen in Figures 1 and 27, show a portable foldable playpen (10) comprising a protective member (162) sealing the inner panels (160) of the playpen from a child, wherein the protective member is formed of woven mesh (col. 6, lines 42 through 44) and is bonded to the inner panels by stitching (172).

With regard to claim 15, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the combination disclosed by Szego '506 and Bashista et al. '408 such that the bonding means would comprise stitching as taught by Kohus et al. '527 instead of hook and loop fasteners. The motivation would have been to secure the protective member to the side panels in a more secure manner.

5. Claim 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No. 5,881,408) and Kohus et al. (U.S. Patent No. 4,739,527) as applied to claim 15 above, and further in view of Fink (U.S. Patent No. 3,137,870).

The combination of Szego '506, Bashista et al. '408 and Kohus et al. '527 fails to teach: binding tape positioned between the woven mesh and the inner inflatable panels; and stitching between the binding tape and the woven mesh and between the binding tape and the inner inflatable panels.

Fink '870, as seen in Figures 1 and 4, expressly teaches the combination of stitching (27) and binding tape (30) for securing the edges of an infant bumper guard (20), wherein the binding tape serves as reinforcement (col. 1, lines 58 through 66).

With regard to claims 16 and 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device shown Szego '506, Bashista et al. '408 and Kohus et al. '527 such that it would include binding tape as taught by Fink '870 between the woven mesh and the inflatable side panels. The motivation would have been to further reinforce the connection between the protective member and the side panels.

With specific regard to claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include additional stitching as claimed since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. Claims 18, 27, 2, 3, 4, 5, 6, 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No.

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5,881,408) as applied to claim 11 above, and further in view of Artz (U.S. Patent No. 5,291,623A).

The combination of Szego '506 and Bashista et al. '408 further teaches all of the limitations of claims 3 through 6, 9 and 10 as set forth above in section 2.

The combination of Szego '506 and Bashista et al. '408 fails to teach:
the side panels being individually inflatable;
an inflatable member attached to an outer periphery of the base platform; and
the lower end of the side panels having a width greater than the upper end.

Artz '623, as seen in Figures 1 through 7, shows a structure comprising a base platform (16) configured to support a child, and a plurality of inflatable side panels (14) extending vertically from and surrounding the base platform, the base platform and side panels defining an enclosure for the child, and further comprising an inflatable member (18) attached to an outer periphery of the base platform, the inflatable member configured to support the side panels of the structure. Artz '623 expressly teaches independent inflation of vertical support columns (12) for preventing collapse of the inflatable structure (col. 4, lines 56t through 60).

With regard to claims 18 and 2, it would have been obvious to one having ordinary skill in the art at the time of invention to further modify the device taught by the combination of Szego '506 and Bashista et al. '408 such that the side panels would be individually inflatable as

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suggested by Artz '623 for preventing collapse of the structure and subsequent suffocation of a child in the enclosure.

With regard to claim 27, it would have been obvious to one having ordinary skill in the art at the time of invention to further modify the device taught by the combination of Szego '506 and Bashista et al. '408 such that it would include an inflatable member attached to the periphery as taught by Artz '623. The motivation would have been to further stabilize the base platform.

With regard to claim 8, it would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to make the lower ends of each of the side panels of the device shown by the combination of Szego '506, Bashista et al. '408 and Artz '623 wider than their upper ends. The motivation would have been to stabilize the structure against over-tipping.

7. Claims 23, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No. 5,881,408) as applied to claim 11 above, and further in view of Bleser et al. (U.S. Patent No. 4,815,153).

The combination of Szego '506 and Bashista et al. '408 fails to teach:

the base platform being formed of a woven mesh;

at least one of the inflatable side panels comprises a region of woven mesh; and

the region of woven mesh extending to the base panel.

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Bleser et al. '153, as seen in Figures 1 and 2, disclose an inflatable playpen (12) having a base platform (16) and expressly teach the body being made entirely of molded plastic mesh (col. 4, lines 1 through 3).

With regard to claims 23, 28 and 29, it would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to modify the base platform of the device shown by the combination of Szego '506 and Bashista et al. '408 such that the base would be formed from a woven mesh as taught by Bleser et al. '153. The motivation would have been to use a durable, fluid impervious material with bidirectional stability.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szego (U.S. Patent No. 3,763,506) in view of Bashista et al. (U.S. Patent No. 5,881,408) and Artz (U.S. Patent No. 5,291,623A) as applied to claim 27 above, and further in view of Bleser et al. (U.S. Patent No. 4,815,153).

The combination of Szego '506, Bashista et al. '408 and Artz '623 fails to teach:
the base platform being formed of a woven mesh.

Bleser et al. '153, as seen in Figures 1 and 2, disclose an inflatable playpen (12) having a base platform (16) and expressly teach the body being made entirely of molded plastic mesh (col. 4, lines 1 through 3).

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With regard to claim 7, it would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to modify the base platform of the device shown by the combination of Szego '506, Bashista et al. '408 and Artz '623 such that the base would be formed from a woven mesh as taught by Bleser et al. '153. The motivation would have been to use a durable, fluid impervious material with bidirectional stability.

Response to Arguments

9. Applicant's arguments filed 27 July 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the teachings of Szego '506 and Bashista et al. '408, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bashista et al. '408 expressly teach the use of the woven material for preventing a child from passing her limbs through the openings in the crib slats (col. 3, lines 30 through 36). The Examiner contends the fact that the crib shown by Szego '506 is inflatable does not preclude modification to include the woven material taught by Bashista et al. '408. For example, one might have a desire to prevent a child's hands from passing through apertures in the crib panels in the event that the crib is positioned adjacent an electrical outlet.. The combination is additionally capable of performing the recited function of

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sealing the inner inflatable panels from the child, and further capable of performing the function of preventing a child from rolling or squirming into the corner region.

In response to Applicant's newly added recitation of a "corner region," the Examiner contends that the prior art combination meets the invention as broadly claimed. Specifically, Applicant fails to define the "corner region" over the prior art structure.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clute (U.S. Patent No. 5,216,772) shows an infant support pillow comprising a recess (56) covered by netting (62) for preventing suffocation of the infant (col. 9, lines 17 through 22).

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

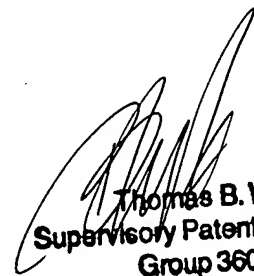
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


tlm
22 September 2006


Thomas B. Will
Supervisory Patent Examiner
Group 3600